



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,872	10/21/2003	Edwin J. Hlavka	0185/0778-US1	3330
76808	7590	06/22/2011	EXAMINER	
Leason Ellis LLP 81 Main Street Suite 503 White Plains, NY 10601			PRONE, CHRISTOPHER D	
			ART UNIT	PAPER NUMBER
			3738	
			MAIL DATE	DELIVERY MODE
			06/22/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## **DETAILED ACTION**

### ***Status of Claims***

Claims 1-78 have been cancelled.

Claims 79-83 are pending.

### ***Priority Date***

The priority date of this application dates back to provisional application 60420095, filed 10/21/02.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 79-83 are rejected under 35 U.S.C. 103 as being unpatentable over Koike et al (Koike) USPN 5,716,367 in view of Makower et al (Makower) USPN 6,071,292.

Koike discloses the invention substantially as claimed being a catheter assembly comprising a central lumen defined by a sidewall and a distal portion comprising a tip and an opening 11 spaced proximal from the tip in the side wall extending through to the central lumen. Koike further discloses an anchor delivery structure comprising a locking element is capable of being slidably / adjustably coupled to an anchor or a tensile member. The catheter of Koike can be bent or rotated to move from a position

Art Unit: 3738

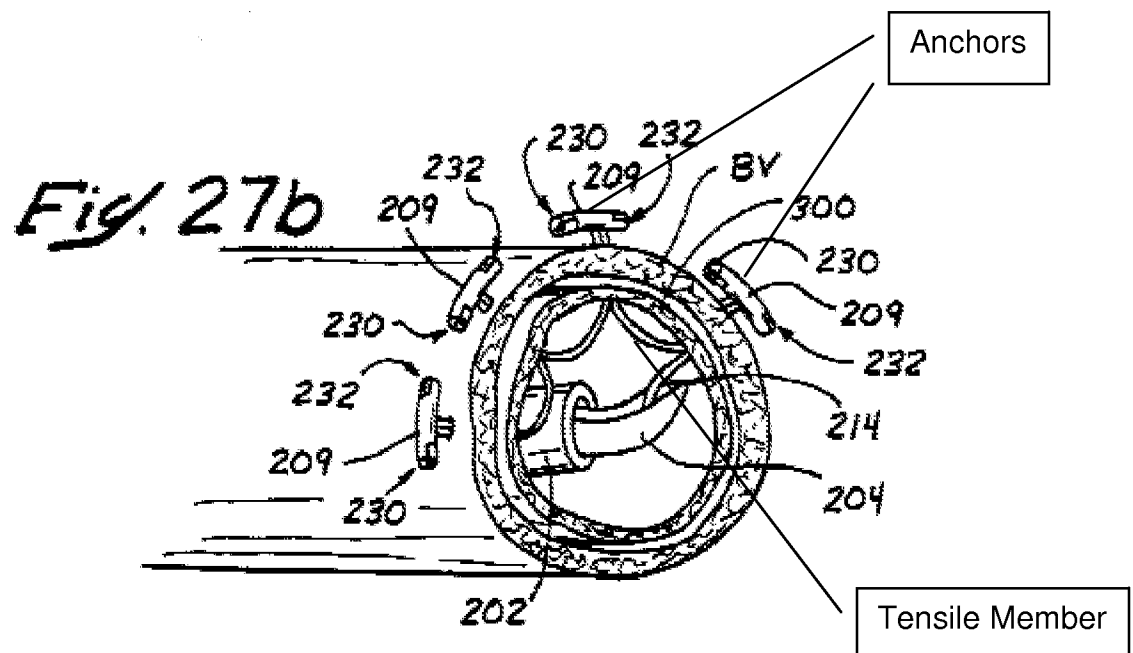
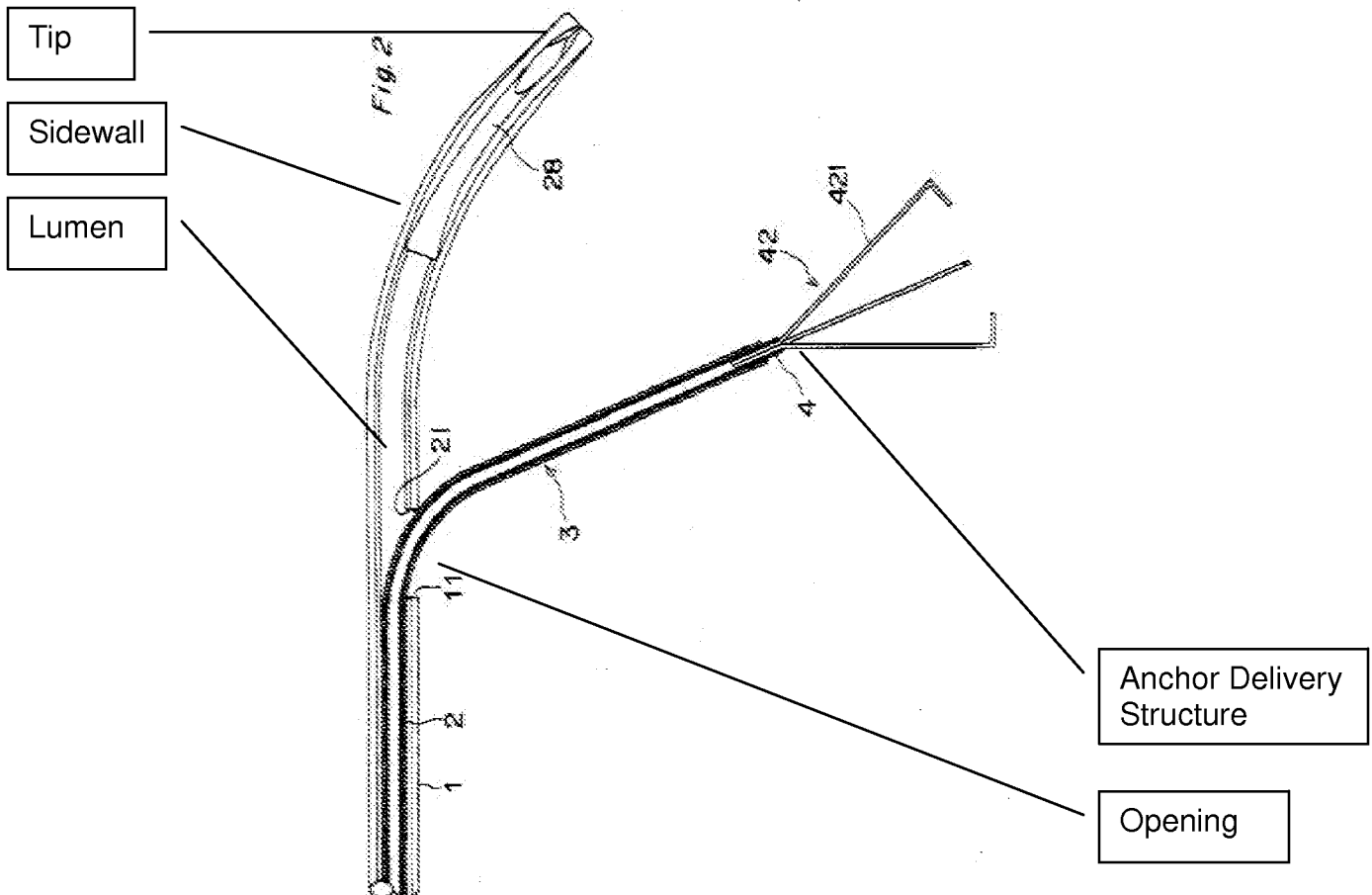
that adapts to the shape of the operation to a position where it does not adapt to the shape of the operation site. See first figure below for details.

However, Koike does not disclose use of a plurality of anchors interconnected by a tensile member.

Makower teaches the use of an anchor delivery system comprising a catheter that implants a plurality of anchors connected by a tensile member using a movable central anchor delivery device shown best in figures 10 and 27b in the same field of endeavor for the purpose of allowing the operator to accurately arrange two separate points of tissue in a desired configuration.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the anchor delivery device of Koike with the delivery device and the anchors tethered by the tensile member disclosed by Makower in order to allow the operator to secure a plurality of tissue points together into a desired configuration.

Art Unit: 3738



***Response to Arguments***

Applicant's arguments filed 4/8/11 have been fully considered but they are not persuasive. The applicant argues that the combination fails to disclose a catheter portion adapted to be received into a chamber of the heart. This is not persuasive because it would have been obvious to a person having ordinary skill in the art at the time of the invention that the catheter of the combination could be inserted in the manner disclosed by Koike, piercing walls, or such that it is received into a chamber of the heart. Furthermore the language of the placement of the device is considered to be language of the applicant's intended use within an apparatus claim. Therefore it is given limited weight and read upon by the combination because they are capable of performing in the claimed manner. This same reasoning holds for the applicant's arguments that the combination fails to disclose its placement in the gutter region. The combination is fully capable of being inserted and operated in the gutter region and this would have been obvious to one of ordinary skill in the art at the time of the invention.

In regards to amended claim 83 the combination modifies the device of Koike to use the anchor delivery device and anchors of to deliver the anchors tethered together as disclosed by Makower.

In order to advance prosecution the applicant is advised to better define the structure of the anchors.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER D. PRONE whose telephone number is (571)272-6085. The examiner can normally be reached on Monday through Fri 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/THOMAS J SWEET/  
Supervisory Patent Examiner, Art Unit 3738

CHRISTOPHER D. PRONE  
Examiner  
Art Unit 3738

/Christopher D Prone/